

BOARD OF APPEALS CASE NO. 4982

BEFORE THE

APPLICANTS: Harry & Stephanie O'Neill

ZONING HEARING EXAMINER

REQUEST: Variance to construct a dwelling with an average height of 36.5 feet in the Agricultural District; 655 Rock Spring Church Road, Forest Hill

OF HARFORD COUNTY

HEARING DATE: December 15, 1999

Hearing Advertised

Aegis: 10/27/99 & 11/3/99

Record: 10/29/99 & 11/5/99

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Harry & Stephanie O'Neill, are requesting a variance to Section 267-34(C), Table II, of the Harford County Code, to construct a dwelling taller than 35 feet in height in an Agricultural District.

The subject parcel is owned by John and Lois O'Neill and is located at 655 Rock Spring Church Road in the Third Election District. The parcel is identified as Parcel No. 18, in Grid 2-C, on Tax Map 14. The parcel contains 2 acres, m/l, all of which is zoned Agricultural.

Ms. Stephanie O'Neill appeared and testified that she is requesting a variance to construct a single-family dwelling an average of 36.5 feet above existing grade. The witness said the house will be situated on the crest of a grade where the elevation falls off to the rear of the proposed dwelling. The witness said the height of the dwelling will be 33 feet in front of the dwelling, but due to the fall and topography to the rear of the house, the average height of the dwelling will be 36.5 feet. Ms. O'Neill said the subject property is unique due to topography and the request for the variance is necessary in order to insure proper drainage around the proposed dwelling. The witness said she did not feel approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because the proposed dwelling will be at least 900 feet from any other dwelling and, further, that the height variance, if approved, will not be visually apparent.

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Mr. Anthony S. McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the Staff has reviewed the Applicants' request and finds that the proposed average height of the dwelling will be 36.5 feet. Mr. McClune said that a 1.5 foot variance is considered minor in nature and should not have an adverse impact on the intent of the Code and/or adjacent properties. Mr. McClune said that the Staff has recommended conditional approval of the Applicants' request.

CONCLUSION:

The Applicants are requesting a variance to Section 267-36(C), Table II, of the Harford County Code, which permits a maximum dwelling height of 35 feet in the Agricultural District. The Applicants are proposing a 36.5 foot average height.


The testimony of the Applicant was that the proposed dwelling will be 33 feet above the front grade and due to topographic conditions on the parcel approximately 40 feet above a portion of the rear grade, with an average height of 36.5 feet. The testimony indicates that the subject parcel is unique due to the topographic conditions, which were testified to by both the Applicant and Anthony McClune of the Department of Planning and Zoning.

No evidence was introduced that approval of the variance will be substantially detrimental to adjacent properties or materially impair the purpose of the Code. It should be noted that the dwelling will be at least 900 feet from the nearest dwelling.

It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant and Mr. McClune and, further, approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

Therefore, it is the recommendation of the Hearing Examiner that requested variance to construct a dwelling with an average height of 36.5 feet be approved, subject to the condition that the Applicants obtain all necessary permits and inspections.

Date JANUARY 13, 2000



L. A. Hinderhofer
Zoning Hearing Examiner